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SENATE BILL 187

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Kent L. Cravens

AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; ELIMINATING OVERLAP BETWEEN LIMITED LICENSES AND IGNITION INTERLOCK LICENSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-5-29 NMSA 1978 (being Laws 1978, Chapter 35, Section 251, as amended) is amended to read:

"66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION. --

A. The division shall immediately revoke the instruction permit, driver's license or provisional license of a driver upon receiving a record of the driver's adjudication as a delinquent for or conviction of any of the following offenses, whether the offense is under any state law or local ordinance, when the conviction or adjudication has become final:

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1 (1) manslaughter or negligent homicide
2 resulting from the operation of a motor vehicle;

3 (2) any offense [~~rendering a person a "first~~
4 ~~offender" as defined in the Motor Vehicle Code, if that person~~
5 ~~does not attend a driver rehabilitation program~~] pursuant to
6 [~~Subsection E of~~] Section 66-8-102 NMSA 1978;

7 [~~(3) any offense rendering a person a~~
8 ~~"subsequent offender" as defined in the Motor Vehicle Code;~~

9 (4)] (3) any felony in the commission of which
10 a motor vehicle is used;

11 [(5)] (4) failure to stop and render aid as
12 required under the laws of this state in the event of a motor
13 vehicle accident resulting in the death or personal injury of
14 another;

15 [(6)] (5) perjury or the making of a false
16 affidavit or statement under oath to the division under the
17 Motor Vehicle Code or under any other law relating to the
18 ownership or operation of motor vehicles; or

19 [(7)] (6) conviction or forfeiture of bail not
20 vacated upon three charges of reckless driving committed within
21 a period of twelve months.

22 B. Except as provided in the Ignition Interlock
23 Licensing Act, a person whose license has been revoked under
24 this section, except as provided in Subsection C, D or E of
25 this section, shall not be entitled to apply for or receive a

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1 new license until [~~the expiration of one year from the date of~~
2 ~~the last application on which the revoked license was~~
3 ~~surrendered to and received by the division, if no appeal is~~
4 ~~filed, or~~] one year from the date that the revocation is final
5 and he has exhausted his rights to an appeal.

6 C. A person who upon adjudication as a delinquent
7 or conviction is subject to license revocation under this
8 section for an offense pursuant to which he was also subject to
9 license revocation pursuant to Section 66-8-111 NMSA 1978 shall
10 have his license revoked for that offense for a combined period
11 of time equal to one year.

12 D. Upon receipt of an order from a court pursuant
13 to Section 32A-2-19 NMSA 1978 or Subsection G of Section
14 32A-2-22 NMSA 1978, the division shall revoke the driver's
15 license or driving privileges for a period of time in
16 accordance with these provisions.

17 E. Upon receipt from a district court of a record
18 of conviction for the offense of shooting at or from a motor
19 vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978 or
20 of a conviction for a conspiracy or an attempt to commit that
21 offense, the division shall revoke the driver's [~~licenses~~]
22 license or driving privileges of the convicted person. A
23 person whose license or privilege has been revoked pursuant to
24 the provisions of this subsection shall not be entitled to
25 apply for or receive any new license or privilege until the

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1 expiration of one year from the date of the last application on
2 which the revoked license was surrendered to and received by
3 the division, if no appeal is filed, or one year from the date
4 that the revocation is final and the person has exhausted his
5 rights to an appeal. "

6 Section 2. Section 66-5-35 NMSA 1978 (being Laws 1978,
7 Chapter 35, Section 257, as amended) is amended to read:

8 "66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR
9 REVOCATION-- HEARING-- REVIEW. --

10 A. Upon suspension or revocation of a person's
11 driver's license following conviction or adjudication as a
12 delinquent under any law, ordinance or rule relating to motor
13 vehicles, a person may apply to the department for a license or
14 permit to drive, limited to use allowing him to engage in
15 gainful employment, to attend school or to attend a court-
16 ordered treatment program, except that the person shall not be
17 eligible to apply:

18 (1) for a limited commercial driver's license
19 or an ignition interlock license in lieu of a revoked or
20 suspended commercial driver's license;

21 (2) for a limited license when the person's
22 driver's license was revoked pursuant to the provisions of the
23 Implied Consent Act [~~except as provided in Subsection B of this~~
24 ~~section or the Ignition Interlock Licensing Act~~];

25 (3) for a limited license when the person's

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1 license was revoked pursuant to the provisions of Section
2 66-8-102 NMSA 1978 [~~except as provided in the Ignition~~
3 ~~Interlock Licensing Act;~~

4 ~~(4) for a limited license when the person's~~
5 ~~driver's license is denied pursuant to the provisions of~~
6 ~~Subsection D of Section 66-5-5 NMSA 1978, except as provided in~~
7 ~~the Ignition Interlock Licensing Act]; or~~

8 [~~(5)~~] (4) for a limited license when the
9 person's driver's license was revoked pursuant to a conviction
10 for committing homicide by vehicle or great bodily injury by
11 vehicle, as provided in Section 66-8-101 NMSA 1978.

12 [B. ~~A person whose driver's license is revoked for~~
13 ~~the first time pursuant to the provisions of Paragraph (1) or~~
14 ~~(2) of Subsection C of Section 66-8-111 NMSA 1978 may apply for~~
15 ~~and shall receive a limited license, permit or an ignition~~
16 ~~interlock license thirty days after suspension or revocation of~~
17 ~~his license if the person pays every fee, meets the criteria~~
18 ~~for limited driving privileges established in rules by the~~
19 ~~department and provides the department with documentation of~~
20 ~~the following:~~

21 ~~(1) that the person is enrolled in a DWI~~
22 ~~school approved by the traffic safety bureau and an approved~~
23 ~~alcohol screening program; and~~

24 ~~(2) proof of financial responsibility pursuant~~
25 ~~to the provisions of the Mandatory Financial Responsibility~~

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1 ~~Act;~~

2 ~~C.]~~ B. Upon receipt of a fully completed
3 application that complies with statutes and rules for a limited
4 license or an ignition interlock license and payment of the fee
5 specified in this subsection, the department shall issue a
6 limited license, ignition interlock license or permit to the
7 applicant showing the limitations specified in the approved
8 application. For each limited license, ignition interlock
9 license or permit to drive, the applicant shall pay to the
10 department a fee of forty-five dollars (\$45.00), which shall be
11 transferred to the [~~state highway and~~] department of
12 transportation [~~department~~]. All money collected under this
13 subsection shall be used for DWI prevention and education
14 programs for elementary and secondary school students. The
15 [~~state highway and~~] department of transportation [~~department~~]
16 shall coordinate with the department of health to ensure that
17 there is no program duplication. The limited license or permit
18 to drive may be suspended as provided in Section 66-5-30 NMSA
19 1978.

20 ~~D.]~~ C. The department, within twenty days of
21 denial of an application for a limited driver's license or
22 permit pursuant to this section, shall afford the applicant a
23 hearing in the county in which the applicant resides, unless
24 the department and the licensee agree that the hearing may be
25 held in some other county. The department may extend the

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1 twenty-day period, provided that the extension is in writing
2 and made no later than fifteen days after receipt of an
3 application. Upon hearing, the hearing officer designated by
4 the department may administer oaths and may issue subpoenas for
5 the attendance of witnesses and the production of relevant
6 books and papers. The hearing officer shall make specific
7 findings as to whether the applicant has shown proof of
8 financial responsibility for the future and enrollment in an
9 approved DWI school and an approved alcohol screening program
10 and meets established uniform criteria for limited driving
11 privileges adopted by rule of the department. The hearing
12 officer shall enter an order either approving or denying the
13 applicant's request for a limited license or permit to drive.
14 If any of the specific findings set forth in this subsection
15 are not found by the hearing officer, the applicant's request
16 for a limited license or permit shall not be approved.

17 [E.] D. A person adversely affected by an order of
18 the hearing officer may seek review within thirty days in the
19 district court in the county in which he resides. On review,
20 it is for the court to determine only whether the applicant met
21 the requirements in this section for issuance of a limited
22 license or permit to drive."